

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION**

**LARUA LASCOLA, Individually and
as Sole Heir and Next of Kin of NORMA
DALE MASSA, Deceased,**

PLAINTIFF,

VS.

CIVIL ACTION NO. 2:06CV80-P-A

**BARDEN MISSISSIPPI GAMING, LLC,
ET AL.,**

DEFENDANTS.

ORDER

This matter comes before the court upon Plaintiff's Motion to Authorize Disclosure to the Jury of the Court Appointment of Expert Roger H. Schmedlen [202]. After due consideration of the motion, the court finds as follows, to-wit:

Pursuant to Fed. R. Evid. 706 the Court may appoint its own expert to opine on a particular issue. Rule 706(a) provides that "the witness may be called to testify by the court or any party. The witness shall be subject to cross-examination by either party, including a party calling the witness." Rule 706(c) provides: "In the exercise of its discretion, the court may authorize the disclosure to the jury of the fact that the court appointed the expert witness." According to Professors Wright and Miller, "A basic purpose of appointing an expert is to provide the trier of fact with a neutral viewpoint when the parties are in conflict. ...Accordingly, where a court-appointed expert testifies, the trial judge commonly discloses the appointment to the jury." 29 Fed. Prac. & Proc. Evid. § 6305.

Having considered the report of Roger H. Schmedlen and the parties arguments, the Court concludes that the plaintiff's motion should be granted. Thus, the Court will disclose to the jury that Mr. Schmedlen is a court-appointed expert with an admonition that his testimony is not to be given

any more weight than that given by the parties' experts simply by virtue of his court appointment.

Both parties are free to cross-examine Mr. Schmedlen.

IT IS THEREFORE ORDERED AND ADJUDGED that Plaintiff's Motion to Authorize Disclosure to the Jury of the Court Appointment of Expert Roger H. Schmedlen [202] is **GRANTED**.

SO ORDERED this the 13th day of December, A.D., 2007.

/s/ W. Allen Pepper, Jr.

W. ALLEN PEPPER, JR.

UNITED STATES DISTRICT JUDGE